

## Social Security Administration

## § 404.1706

cannot be resolved between the State and us will be resolved in proceedings before the Departmental Appeals Board as described in 45 CFR part 16.

[46 FR 29204, May 29, 1981, as amended at 62 FR 38452, July 18, 1997]

### Subpart R—Representation of Parties

**AUTHORITY:** Secs. 205(a), 206, 702(a)(5), and 1127 of the Social Security Act (42 U.S.C. 405(a), 406, 902(a)(5), and 1320a-6); sec. 303, Pub. L. 108-203, 118 Stat. 493.

**SOURCE:** 45 FR 52090, Aug. 5, 1980, unless otherwise noted.

#### § 404.1700 Introduction.

You may appoint someone to represent you in any of your dealings with us. This subpart explains, among other things—

- (a) Who may be your representative and what his or her qualifications must be;
- (b) How you appoint a representative;
- (c) The payment of fees to a representative;
- (d) Our rules that representatives must follow; and
- (e) What happens to a representative who breaks the rules.

#### § 404.1703 Definitions.

As used in this subpart—

*Past-due benefits* means the total amount of benefits under title II of the Act that has accumulated to all beneficiaries because of a favorable administrative or judicial determination or decision, up to but not including the month the determination or decision is made. For purposes of calculating fees for representation, we determine past-due benefits before any applicable reduction under section 1127 of the Act (for receipt of benefits for the same period under title XVI). Past-due benefits do not include:

- (1) Continued benefits paid pursuant to § 404.1597a of this part; or
- (2) Interim benefits paid pursuant to section 223(h) of the Act.

*Representative* means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you

appoint to represent you in dealings with us.

*We, our, or us* refers to the Social Security Administration.

*You or your* refers to any person claiming a right under the old-age, disability, dependents', or survivors' benefits program.

[45 FR 52090, Aug. 5, 1980, as amended at 72 FR 16724, Apr. 5, 2007]

#### § 404.1705 Who may be your representative.

(a) *Attorney.* You may appoint as your representative in dealings with us, any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealings with us; and

(4) Is not prohibited by any law from acting as a representative.

#### § 404.1706 Notification of options for obtaining attorney representation.

If you are not represented by an attorney and we make a determination or decision that is subject to the administrative review process provided under subpart J of this part and it does not grant all of the benefits or other relief you requested or it adversely affects any entitlement to benefits that we have established or may establish for you, we will include with the notice of that determination or decision information about your options for obtaining an attorney to represent you in dealing with us. We will also tell you that a legal services organization may